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4 BILL NO. S-76-11- 27

SPECIAL ORDINANCE NO. S-216-76

6 AN ORDINANCE approving a contract  
7 with T & G Excavating, Inc., for  
8 Construction of Morris Street and  
Banks Avenue Water Main Extension.

9 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT  
10 WAYNE, INDIANA:

11 SECTION 1. That the contract dated November 1, 1976,  
12 between the City of Fort Wayne, by and through its Mayor and the  
13 Board of Public Works and T & G Excavating, Inc., for:

14 Construction of Morris St. and Banks Ave. Water  
15 Main Extension. Contractor shall furnish all  
16 materials, labor, equipment, tools, power,  
17 transportation, miscellaneous equipment, etc.,  
18 necessary to install 990+ feet of 6" ductile iron  
19 water main on Morris St. and Banks Ave. from Covington  
Road to Strathmore Ave., all as shown on  
Fort Wayne Water Utility, Engineering Department,  
drawing Y-10502, sheets 1 thru 3 (as revised), and  
do everything required by the contract documents  
and this Agreement.

20 for a total cost of \$12,931.40, all as more particularly set  
21 forth in said contract which is on file in the Office of the  
22 Board of Public Works and is by reference incorporated herein,  
23 made a part hereof and is hereby in all things ratified, confirmed  
24 and approved.

25 SECTION 2. This Ordinance shall be in full force and  
26 effect from and after its passage and approval by the Mayor.

27  
28   
29 Councilman

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33 APPROVED AS TO FORM  
34 AND LEGALITY

35   
CITY ATTORNEY

Read the first time in full and on motion by Burns, seconded by Hinga, and duly adopted, read the second time by title and referred to the Committee on City Utilities (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on \_\_\_\_\_, the day of \_\_\_\_\_, 1976, at \_\_\_\_\_ o'clock P.M., E.S.T.

DATE: 11-23-76

Charles W. Westerman  
CITY CLERK

Read the third time in full and on motion by Burns, seconded by Hinga, and duly adopted, placed on its passage.  
PASSED (LOST) by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	<u>9</u>				
BURNS					
HINGA	<u>✓</u>				
HUNTER	<u>✓</u>				
MOSES	<u>✓</u>				
NUCKOLS	<u>✓</u>				
SCHMIDT, D.	<u>✓</u>				
SCHIMDT, V.	<u>✓</u>				
STIER	<u>✓</u>				
TALARICO	<u>✓</u>				

DATE: 12-14-76

Charles W. Westerman  
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL) (APPROPRIATION)

ORDINANCE (RESOLUTION) No. 246-76 on the 14th day of Dec, 1976.

ATTEST (SEAL)

Charles W. Westerman  
CITY CLERK

James Stier  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 15th day of December, 1976, at the hour of 11:00 o'clock A M., E.S.T.

Charles W. Westerman  
CITY CLERK

Approved and signed by me this 15th day of December, 1976, at the hour of 2:00 o'clock P M., E.S.T.

Robert Elmshong  
MAYOR

Bill No. S-76-11-27

REPORT OF THE COMMITTEE ON CITY UTILITIES

We, your Committee on City Utilities to whom was referred an Ordinance  
approving a contract with T & G Excavating, Inc., for Construction  
of Morris Street and Banks Avenue Water Main Extension

have had said Ordinance under consideration and beg leave to report back to the Common  
Council that said Ordinance AS PASS.

Paul M. Burns - Chairman

John Nuckols - Vice-Chairman

William T. Hinga

Fredrick R. Hunter

Samuel J. Talarico

12-14-76  
DATE \_\_\_\_\_ CONCURRED IN  
CHARLES W. WESTERMAN, CITY CLERK



## THE CITY OF FORT WAYNE

CITY-COUNTY BUILDING • ONE MAIN STREET • FORT WAYNE, INDIANA 46802

board of public works

October 11, 1976

The Common Council  
Fort Wayne, Indiana

Gentlemen and Mrs. Schmidt:

Bids have been received in the Board of Public Works on Water Contract 7616, for the extension of a water main to serve properties in the area of Morris Street and Banks Avenue. The bid of T-C Excavating, Inc. was low in the amount of \$12,931.40.

It is the intent of the Water Utility to underwrite the total project cost, allowing the property owners to reimburse their proportionate share when taps are made. The Utility will absorb the cost of engineering and inspection.

The wells of several of the property owners have failed and they have been without water for some time while waiting for city water to become available. Due to the Board's desire to help these people as well as to allow the contractor to make the installation before inclement weather, a "Prior Approval" is requested.

An Ordinance will be submitted for formal approval when the contract is executed.

Sincerely,

BOARD OF PUBLIC WORKS

*Henry P. Wehrenberg*  
Henry P. Wehrenberg, Chairman

CITY OF FORT WAYNE

*Robert E. Armstrong*  
Robert E. Armstrong, Mayor

/eis  
Attachments

APPROVED:

*William J. Smith* *William J. Smith* *Samuel J. Talpico*  
*W. Schmidt* *William J. Smith* *William J. Smith*  
*John J. Smith*  
MEMBERS OF THE COMMON COUNCIL

ATTEST:

*Charles W. Westerman*  
Charles W. Westerman, City Clerk

AN EQUAL OPPORTUNITY EMPLOYER

16-12-76



© F.W.B.C. 19

1176

AGREEMENT

FOR CONSTRUCTION OF MORRIS ST. AND BANKS AVE. WATER MAIN EXTENSION

CONTRACT NO. 7616

THIS AGREEMENT, made this 1 day of November, 1976, by and between T & G EXCAVATING, INC. herein called the CONTRACTOR, and the City of Fort Wayne, an Indiana Municipal Corporation, herein called OWNER,

WITNESSETH, that the CONTRACTOR and the OWNER for the consideration hereinafter named, agrees as follows:

ARTICLE 1. SCOPE OF WORK

CONTRACTOR shall furnish all materials, labor, equipment, tools, power, transportation, miscellaneous equipment, etc., necessary to install 990 feet of 6" ductile iron water main on Morris St. and Banks Ave. from Covington Road to Strathmore Ave., all as shown on Fort Wayne Water Utility, Engineering Department, drawing Y-10502, sheets 1 thru 3 (as revised), and do everything required by the contract documents and this Agreement.

ARTICLE 2. TIME OF COMPLETION

The work to be performed under this contract shall be commenced immediately upon notice to proceed and the work shall be completed within thirty (30) consecutive calendar days after receipt of material.

ARTICLE 3. THE CONTRACT SUM

The OWNER shall pay the CONTRACTOR for the performance of the contract sum of \$12,931.40. In the event the amount of work is increased or decreased by the OWNER, the contract sum shall be increased or decreased according to the unit price schedule set forth in the Contractor's proposal.

ARTICLE 4. PROGRESS PAYMENTS

The OWNER shall make payments on account of the contract as provided herein, as follows:

On or about the 15th of each month, ninety percent (90%) of the value of the work performed up to the first day of that month (based on the contract prices of labor and materials incorporated in the work) and as estimated by the CONTRACTOR and approved or revised by the Engineering Department of the OWNER, less the aggregate of previous payments.

#### ARTICLE 5. ACCEPTANCE AND FINAL PAYMENT

Final payment shall be due at the time the work is fully completed and the contract is fully performed.

Upon receipt of written notice that the work is ready for final inspection and acceptance, the Engineering Department of the OWNER shall promptly make such inspection, and when it finds the work acceptable under the contract and the contract fully performed, it shall promptly issue a final certificate stating that the work provided for in this Contract has been completed and is accepted, and the entire balance of the contract sum shall be due and payable to the CONTRACTOR.

At the time said payment is due and payable, the CONTRACTOR shall furnish the OWNER, if requested to do so, satisfactory evidence that all persons who have supplied labor, materials, or equipment for the work have been fully paid.

#### ARTICLE 6. GUARANTEE OF MATERIALS AND WORKMANSHIP

CONTRACTOR guarantees all materials and work against defects for a period of one year after the date of the acceptance of the work.

#### ARTICLE 7. THE CONTRACT DOCUMENTS

The Instructions to Bidders, Specifications, Contractor's Proposal, Bond, and this Agreement form the Contract, and they are as fully a part of the Contract as if hereto attached or herein repeated. The following is an enumeration of these documents:

- a. Instructions to Bidders for Contract #7616
- b. Contractor's Proposal dated October 5, 1976
- c. Contractor's Bond
- d. Supplemental Specifications for Morris Street Water Main Extension, and Detailed Specifications and Conditions for the installation of Transmission and Distribution Mains, Contract No. 7616, and Fort Wayne Water Utility, Engineering Department Drawing No. Y-10502, sheets 1-3 (as revised).

#### ARTICLE 8. ADJUSTMENTS OF DISPUTES

All questions or controversies which may arise between the CONTRACTOR and the OWNER under the provisions of this contract shall be subject to the decision of the Chief Engineer of the Fort Wayne Water Utility of the OWNER, and his decision shall be final and conclusive upon the parties.

Provided, however, no changes in the plans, specifications, or other phases of the work covered by this contract will be permitted except on prior written authorization by the Board of Public Works.

#### ARTICLE 9. INDEMNITY

CONTRACTOR shall indemnify the OWNER against any claim or loss incurred or arising out of the performance of the work as provided herein.

#### ARTICLE 10. COUNCILMANIC APPROVAL

This Agreement, although executed on behalf of the OWNER by its Mayor and Board of Public Works, shall not be binding upon the OWNER unless and until the same shall

have been ratified and approved by the Common Council of the City of Fort Wayne Indiana, and should said Common Council fail to approve the same within sixty (60) days after the date hereof, then this contract shall be and become wholly void.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

T & G EXCAVATING, INC.

BY: Thomas Stockamp, Pres.  
Thomas Stockamp, President

CITY OF FORT WAYNE, INDIANA

BY: Robert E. Armstrong  
Robert E. Armstrong, Its Mayor

BOARD OF PUBLIC WORKS:

Henry P. Wehrenberg  
Henry P. Wehrenberg, Chairman

Ethel H. LaMar  
Ethel H. LaMar, Member

Max G. Scott  
Max G. Scott, Member

ATTEST:

Wanda Miller

APPROVED AS TO FORM AND LEGALITY:

Thomas J. Brasher  
Circuit City Attorney

APPROVED by the Common Council of the City of Fort Wayne on \_\_\_\_\_

1976, Special Ordinance No. \_\_\_\_\_.

## IMPROVEMENT TO CITY UTILITIES - WATER WORKS DIVISION

PERFORMANCE BOND & *Guaranty*

KNOW ALL MEN BY THESE PRESENTS: That we, the undersigned, \_\_\_\_\_  
T-G Excavating, Inc. of Fort Wayne, Indiana  
as principal, and Fidelity and Deposit Company of Maryland  
as surety, are held and firmly bound unto the State of Indiana, for the benefit  
of the City of Fort Wayne, Indiana, in the penal sum of Twelve Thousand  
Nine Hundred Thirty One and 40/100 Dollars (\$ 12,931.40 ) for the  
payment of which we hereby jointly and severally bind ourselves, our heirs,  
executors, administrators, successors and assigns.

DATED this 14th day of October, 1976.

THE condition of this obligation is such that whereas the above named principal  
did, on the 14th day of October, 1976, enter into a contract with  
the City of Fort Wayne, Indiana, by the terms of which said principal agreed to  
perform everything required to be performed and to provide and furnish at his  
sole cost and expense all the labor, tools, materials, expendable equipment,  
transportation services, bonds and insurance required to perform and to com-  
plete in a workmanlike manner all the work required in the above mentioned  
contract for the sum of Twelve Thousand Nine Hundred Thirty One and 40/100  
Dollars (\$ 12,931.40 ) and to remove and replace any defective or  
unsuitable materials, equipment or structure at the expense of said principal  
which may be apparent or may develop from inferior workmanship or material  
within one (1) year from the date of final acceptance of the above described  
work, which contract is made a part of this bond the same as set forth herein:



Now, if said principal shall well and faithfully do and perform the things agreed by him, them, or it, to be done and performed according to the terms of said contract, and shall pay all lawful claims or indebtedness which may accrue, by operation of law and otherwise, to any persons, firm or corporation on account of any labor or service performed or material furnished or service rendered, in the carrying forward, performing, and completing of said contract; we agreeing and assenting that this undertaking directly inures to the benefit of subcontractors, laborers, materialmen and those performing service on account of or directly in connection with the completion of said contract, as well as for the obligee herein; then this obligation shall be void, otherwise the same shall remain in full force and effect; and

IT IS HEREBY EXPRESSLY UNDERSTOOD AND AGREED, and made a condition hereof, that any judgement rendered against the City of Fort Wayne, as aforesaid, in any suits for damage for injury to real or personel property, or for any injury, sustained by any person growing out of any act or doing of said contractor, or its agents, employees or workmen in the premises, and also that any judgment of any court or award of any Board of Arbitrators or of the State Industrial Board of the State of Indiana rendered against the City of Fort Wayne in any suit or claim arising under said Workmen's Compensation Acts, of the State of Indiana, now in force, relating to compensation for accidental injuries or death suffered by his employees or the employees of any subcontractor or subcontractors in the course of their employment, when notice of the pendency of such suit, hearing or arbitration shall have been given said contractor, shall be conclusive against each and all parties to this obligation, as to amount, liability and all other things pertaining thereto.

Said surety for value received hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder or the specifications accompanying the same, shall in any way affect its obligation on this bond and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the work or to the specifications. No change, modification, omission, or addition in and to the terms or conditions of said contract, plans, specifications, drawings, or profile, or any irregularity or defect in said contract or in the proceedings preliminary to the letting and awardings thereof shall in any way effect or operate to release or discharge said surety and the provisions and conditions of Chapter 258 of the Acts of the General Assembly of Indiana, of 1933, shall be, operate as, and become a part of the terms of this bond and said contract the same as if incorporated herein.

IN WITNESS WHEREOF, we have this 14th day of October, 197<sup>6</sup>  
affixed our signatures and corporate seals to three (3) executed original copies of this Agreement.

T-G Excavating, Inc.

Principal

By: Tern Stockamp, Pres.  
Authorized Agent

Fidelity and Deposit Company of Maryland

Surety

By: Duane E. Lupton  
Attorney-in-Fact

STATE OF INDIANA:  
SS:  
COUNTY OF ALLEN:

BEFORE ME, a Notary Public, in and for said State, came  
Thomas M. Stockamp of T-G Excavating, Inc.

as principal, and Duane E. Lupke  
of the Lupke-Rice Associates

Attorney in Fact, for said Fidelity and Deposit Company  
of Maryland as surety, with both of  
whom I am personally acquainted, and acknowledged that  
they subscribed their signatures to the above and fore-  
going bond.

SUBSCRIBED TO, before me, a Notary Public, this 14th  
day of October, 1976.

Paula W. Schneider  
Notary Public

MY COMMISSION EXPIRES: 2/12/77

2-12-77

## FIDELITY AND DEPOSIT COMPANY OF MARYLAND

HOME OFFICE: BALTIMORE, MD.

KNOW ALL MEN BY THESE PRESENTS: That the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, a corporation of the State of Maryland, by G. M. PEGOT, JR., Vice-President, and PAUL E. ZACHARSKI, Assistant Secretary, in pursuance of authority granted by Article VI, Section 2, of the By-Laws of said Company, which reads as follows:

"The President, or any one of the Executive Vice-Presidents, or any one of the additional Vice-Presidents specially authorized so to do by the Board of Directors or by the Executive Committee, shall have power, by and with the concurrence of the Secretary or any one of the Assistant Secretaries, to appoint Resident Vice-Presidents, Assistant Vice-Presidents, Resident Assistant Secretaries and Attorneys-in-Fact as the business of the Company may require, or to authorize any person or persons to execute on behalf of the Company any bonds, undertakings, recognizances, stipulations, policies, contracts, agreements, deeds, and releases and assignments of judgments, decrees, mortgages and instruments in the nature of mortgages, and also all other instruments and documents which the business of the Company may require, and to affix the seal of the Company thereto."

does hereby nominate, constitute and appoint Walter H. Lupke, Jr., Duane E. Lupke, Donald L. Coffey, Edward B. Rice, Walter E. Boose, Paula W. Schneider, Marvin P. Martin, Lowell K. Zelt and Virginia T. Axson, all of Fort Wayne, Indiana, EACH, its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed: any and all bonds and undertakings.....

And the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Company, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its office in Baltimore, Md., in their own proper persons. This power of attorney revokes that issued on behalf of Walter H. Lupke, Jr., et al, dated November 6, 1975.


The said Assistant Secretary does hereby certify that the foregoing is a true copy of Article VI, Section 2, of the By-Laws of said Company, and is now in force.

IN WITNESS WHEREOF, the said Vice-President and Assistant Secretary have hereunto subscribed their names and affixed the Corporate Seal of the said FIDELITY AND DEPOSIT COMPANY OF MARYLAND, this 21st day of June, A.D. 1976.

## FIDELITY AND DEPOSIT COMPANY OF MARYLAND

ATTEST:

  
Assistant Secretary

By   
Vice-President

STATE OF MARYLAND } ss:  
CITY OF BALTIMORE

On this 21st day of June, A.D. 1976, before the subscriber, a Notary Public of the State of Maryland, in and for the City of Baltimore, duly commissioned and qualified, came the above-named Vice-President and Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and they each acknowledged the execution of the same, and being by me duly sworn, severally and each for himself depose and saith, that they are the said officers of the Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and that the said Corporate Seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal, at the City of Baltimore, the day and year first above written.

  
Notary Public Commission Expires July 1, 1978.


## CERTIFICATE

I, the undersigned, Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the original Power of Attorney of which the foregoing is a full, true and correct copy, is in full force and effect on the date of this certificate; and I do further certify that the Vice-President who executed the said Power of Attorney was one of the additional Vice-Presidents specially authorized by the Board of Directors to appoint any Attorney-in-Fact as provided in Article VI, Section 2 of the By-Laws of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND.

This Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at a meeting duly called and held on the 16th day of July, 1969.

RESOLVED: "That the facsimile or mechanically reproduced signature of any Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed."

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seal of the said Company, this 14th day of October, 1976.

  
Assistant Secretary

3411 TITLE OF ORDINANCE SPECIAL ORDINANCE - Water Contract with T-G Excavating, Inc.

DEPARTMENT REQUESTING ORDINANCE BOARD OF PUBLIC WORKS

SYNOPSIS OF ORDINANCE Contract of T-G Excavating, Inc. in amount of \$12,931.40

provides for installation of water mains to serve properties on Morris Street  
and Banks Avenue.

City Utilities is underwriting this contract and will be reimbursed as property  
owners tap into the lines.

(SEE PRIOR APPROVAL ATTACHED)

EFFECT OF PASSAGE Extend water service to area where many wells have failed

Revenue to Utility on monthly usage

EFFECT OF NON-PASSAGE PRIOR APPROVAL RECEIVED

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) Cost to Water Utility of

\$12,931.40 - To be reimbursed by property owners

ASSIGNED TO COMMITTEE City Utilities